IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA COLUMBIA DIVISION

Harry Lee Green,)	C.A. No. 3:05-2604-CMC-JRM
Plaintiff,)	
v.)	OPINION and ORDER
Matthew D. Gatling; Martha McElveen Horne; Patty Patterson; and Sumter City Police Department,))	
Defendants.)	

This matter is before the court on Plaintiff's *pro se* complaint¹ asserting various allegations against Defendants relating to his arrest and prosecution after an altercation in 2003. Plaintiff originally filed his complaint in state court, initiating his action pursuant to 42 U.S.C. § 1983. On September 8, 2005, Defendants removed this action to this court.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(e), DSC, this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pre-trial proceedings and a Report and Recommendation. On May 26, 2006, the Magistrate Judge issued a Report recommending that Defendants' motion for summary judgment be granted as to Plaintiff's federal claims, and that Plaintiff's remaining state law claims be remanded to state court. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if no objections were filed. Both Plaintiff and

¹Plaintiff's Objections reference an amended complaint, which appears to have been received in state court on October 3, 2005. However, this case had been removed to this court on September 8, 2005. Therefore, at the time the state court received Plaintiff's amended complaint, the case was no longer pending in that court. Plaintiff never sought permission from this court to file an amended complaint. Therefore, any references to Plaintiff's causes of action are to those contained in the original complaint.

Defendants have filed objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. See Mathews v. Weber, 423 U.S. 261 (1976). The court is charged with making a de novo determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.") (citation omitted).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and the Objections of the parties, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Plaintiff's objections are without legal merit. Defendants' objections indicate that they "do not interpret Plaintiff's Complaint as containing any state law claims to be remanded to State Court." Defendants' Objections at 1 (Dkt. #22, filed June 5, 2006). This court disagrees and refers Defendants to Plaintiff's Complaint, which indicates an assertion of several state law tort actions.

IT IS THEREFORE ORDERED that the Defendants' motion for summary judgment is **granted** as to Plaintiff's federal claims. Plaintiff's state law causes of action are hereby **remanded**

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to the Sumter County Court of Common Pleas.

IT IS SO ORDERED.

s/ Cameron McGowan Currie CAMERON McGOWAN CURRIE UNITED STATES DISTRICT JUDGE

Columbia, South Carolina June 14, 2006

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